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## RECENT TENDENCIES IN STATE ADMINISTRATION.

The utterances of the governors of several of our states within recent years have called the attention of the public to what has become the chief distinguishing characteristic of modern state administration, viz: the tendency to conduct administration by means of an appointed board or commission. Few Americans realize the extent to which this has gone. In a general way it is known that there are a great many commissioners and trustees of various sorts in our states, and that the care of certain public institutions is given over to them. But it is not so well known that many of the most important interests with which the state has to deal are in the hands of such boards. Thus we have Boards of Health and Charities in nearly all of our states. The numerous questions arising out of the modern system of transportation, questions affecting commerce and agriculture, the control of our penal and reformatory institutions, are all made the subject of commission government.

These boards and commissions have arisen in response to a well-defined demand for some agency which would carry us over an experimental period in administration, and can hardly be said to be the final answer to the question how best to care for these various interests. They must be considered as having been created especially to meet the wants of social and economic conditions consequent upon a rapid increase in population and wealth, and as first attempts to solve questions which are not yet fully answered.

Having thus been created to meet the exigencies of the moment, they have often apparently been established with little regard to efficiency or to their proper relation to the administrative machinery which already existed. There has been a consequent multiplication of such boards and commissions until New York has to-day nearly one hundred dif-

ferent bodies of commissioners and boards of trustees, while Massachusetts, Pennsylvania and the other more populous states have a like number, many of which are unnecessary.

These boards fall into three divisions, depending upon the nature of their duties. Certain of them have only power to investigate and report upon their findings; others have semi-judicial powers; and a great deal of the executive power of the state has been placed in the hands of a third class.

It is not questioned here that for the purposes of investigation and recommendation a board may be an efficient organ of administration. Nor is it the intention to criticise boards with semi-judicial powers, in so far as they perform the work of a court. But where the board has only or chiefly, executive and administrative powers, as is the case in many instances, its necessity and usefulness in our state governments may be questioned. The suggestions in this paper go rather to the abuse than to the use of the idea of a board in the government of the state.

The appointment of the boards of the third class has reacted upon the organization of executive power in our states in two ways. It has seemingly increased the governor's power in that to him has generally been given the appointing of the members of the boards; and this has to a certain extent prevented this branch of the governing power from becoming overshadowed by the legislative and judicial branches. While this is true, it has given to the executive but little real power; for though he is able to appoint the members of the boards, he has no voice in the management of the affairs which are entrusted to them. Once appointed they pass from his control and become irresponsible, and their conduct can only be questioned by judicial processes.

The number and complexity of these commissions has become so great that students of politics may well give some attention to their usefulness as governmental agencies. Indeed, such an investigation has been suggested by four

of New York's governors within the last fifteen years, and by two governors of Massachusetts. The suggestion has also been made by writers upon legislation and administration that a reorganization in the field of government covered by such commissions would be in the interests of good government and public economy.<sup>1</sup>

Any system of dealing with public interests in order to justify itself before the bar of present-day public opinion, must meet at least three requirements, *i. e.*, those of efficiency, economy and accountability. Systems which cannot meet these may live. But it is either because the people are not aware of their failure, or know of no better way to deal with the matters with which they are entrusted. The people of the states are to a great degree dependent upon the state government for safety and happiness, for liberty, property and general welfare. It touches them at each of these vital points; and it is to their immediate interest that the form of government which the state provides should be of the highest efficiency, and at the same time should be economical and responsible. The more complex these duties become, the greater becomes the necessity that the power which administers them should be restrained by such official responsibility as will keep it always within the control of the people. "The first requisite of efficient administration is power, with responsibility which can readily call it to account."

Present-day methods of administration through a commission are neither economical, efficient nor responsible. On the contrary, from the evidence before us they seem to be most extravagant methods, having a great lack of efficiency and being responsible to no one. Their creation, too, has taken a part of the executive power from where it logically belongs and transferred it to them in a manner which greatly

<sup>1</sup> Governors Hill, Morton, Flower and Odell in New York, and Russell and Greenhalge in Massachusetts, have referred to these matters in recent messages. Fairlie, Whitten, Webster and Goodnow, in published discussions, have also dealt with the subject.

weakens executive power and authority, while it does not inure to the benefit of the people.

A commission, generally speaking, is not as efficient as a single executive officer, for several reasons. In the organization of many of them there are seen to be a number of ex-officio members. These cannot be counted upon for active work, and are a source of weakness rather than of strength. If in addition to this the members live at a distance from each other, and meet only occasionally, they cannot have that grasp of affairs which is necessary to efficient administration. Such a commission is also subject to all the weakness of a deliberative body. In many cases the members are unpaid, and this causes a lack of interest unless they are stimulated by patriotism or some personal interest which may be wanting. The charge is also made that these commissions have on them men who have been appointed for political reasons, the commission being considered a place "of comfortable retirement for once active politicians whose occupation is gone, and whose usefulness to the commonwealth is measured only by their admitted uselessness to political parties or to business circles." It is not here claimed that all these sources of weakness are present in all commissions; but if any of them are, they are in so far rendered incapable of giving that efficient service which the public business ought to receive.

"A board," says Governor D. B. Hill, "consisting of eleven persons (aside from its ex-officio members) scattered in various parts of the state, and which only occasionally meets, is a cumbersome and unwieldy body. It cannot perform its duties as efficiently or satisfactorily as a single responsible head. Its functions cannot be discharged as economically or expeditiously as when in the hands of one controlling executive officer."<sup>1</sup> Governor Hill recommends the abolition of the State Board of Charities and the Commission in Lunacy, and the creation of a single commissioner, who should be vested

<sup>1</sup> Public Papers of D. B. Hill, 1886, p. 38.

with the powers of both boards. He also recommends the abolition of the State Board of Health of ten members, and the substitution of one officer competent to assume the sole general charge of the preservation of the public health. This officer should be as "potential and responsible" in his department, as are the other single departmental heads in theirs.

Another fact should be mentioned in this connection. The members of these boards in many instances have other business to which they must give the greater part of their attention, public service being to them only incidental. From the nature of the case efficient service cannot be expected from such members, if, as is true in many instances, the affairs to be dealt with are of a complex nature. Even such commissioners as those on the Board of Fish, Game and Forestry in New York, in the opinion of Governor Roosevelt should be woodsmen, and have no outside business.<sup>1</sup>

The great multiplication of boards and commissions has tended to increase public expenditures very rapidly. This tendency was noted in 1892 by Governor Flower, of New York, in his annual message. The following table of expenses incurred by some of the boards in that state will indicate this with sufficient emphasis:

Name of Board.	When Established.	Cost First Year.	In 1891.
Board of Health . . . . .	1880	\$11,700	\$28,832
Bureau of Labor . . . . .	1883	7,090	35,506
Dairy Commission . . . . .	1884	41,503	91,842
Forest Commission . . . . .	1884	2,954	58,478
Arbitration . . . . .	1886	14,552	15,093
Lunacy Commission . . . . .	1889	16,146	20,895

A great many commissions have been established since this message was written; but the warning which it contains is even more applicable to present conditions than it was to those of the time when it was written. The Governor further

<sup>1</sup> Message, 1900.

said: "Undoubtedly a large part of this legislation was wise and the commissions or bureaus created have accomplished many beneficial results; but some of them, I fear, have failed to justify the expenditure on their behalf, and the tendency in nearly all of them has been toward constantly increasing expenditures."<sup>1</sup>

This indication of the tendency to expense has not been overlooked by later governors of the Empire State. Of somewhat sterner nature is the following from the message of Governor Morton in 1895: "A great extravagance arises from the multiplicity of commissions which have increased so rapidly in number and expense since about the year 1880. From an expenditure for the duties covered by these commissions of less than \$4,000 in 1880, we have seen the growth from year to year until the cost of these commissions alone amounted last year to nearly a million and a quarter of dollars."

The fullest treatment which the question of expense in commissions has received at the hands of a public servant is contained in the recent utterance of Governor Odell in January, 1901. Governor Odell calls the attention of the legislature to the fact of the great growth of government by commission, and points out clearly the importance of doing away with many of them which have outgrown their usefulness. His treatment of this question is so masterly a setting forth of the facts as to commission government in New York that I quote at some length from it:

"Legislation," he says, "in recent years has enlarged and in many cases duplicated the work until the many officials with their accompanying salaries, expenses and other incidental outlays have grown to proportions inconsistent with a due regard to the interests of the taxpayers. The Board of Mediation and Arbitration received an appropriation (in 1900) of \$17,800 for salaries and office expenses. The Bureau of Labor Statistics received an appropriation of

<sup>1</sup> Public Papers of R. G. Flower, New York, 1892, p. 20.

\$32,942. The State Factory Inspector's department received an appropriation of \$121,551; making a total appropriation for these three departments of \$172,293. It would seem that by a consolidation of these three departments into one, to be known as the Department of Labor, the work done by each of the present departments could be more efficiently performed and at a very much less expense than is now possible. In my opinion at least \$72,000 would be saved by such a union and the great interests of labor be better conserved." The State Board of Charities is composed of twelve members each of whom receive ten dollars per day for their service. The appropriation during 1900 for this purpose was \$51,620. If these duties were given to a single commissioner appointed by the governor it is estimated that a saving of \$25,000 per year could be effected. A like saving might be effected by doing away with the Prison Commission, in the opinion of Governor Odell, of \$10,000. In discussing the State Forestry Preserve Board and Forestry, Fish and Game Commission he says, "There was appropriated by the last legislature for the salaries and office expenses of the Forestry, Fish and Game Commission the sum of \$82,875. This includes the expenses of printing and publication of reports, salaries of commissioners and employees and other expenses incidental to the maintenance of such a department, but not the maintenance of hatcheries and legal expenses. Aside from the sum of \$250,000 appropriated for the purchase of lands and expenses of the Forest Preserve Board, there were expended for other salaries and office expenses over \$14,000 and paid for additional counsel about \$12,000. The saving of expenses which would undoubtedly follow consolidation would amount to probably \$35,000."<sup>1</sup>

The experience of New York in this matter has not been exceptional. The evils complained of there might be dupli-

<sup>1</sup> Message of Governor Odell, New York, 1901.



cated in any one of a half dozen of our more populous states, and in all of them to some degree.

Following these vigorous recommendations of Governor Odell the Forest, Fish and Game Commission, and the Forest Preserve Board were consolidated and put under a single commissioner. The Bureau of Labor Statistics, Board of Mediation and Arbitration and Department of Factory Inspection were likewise consolidated under a single commissioner. The Prison Commission, consisting of eight members, and the Board of Health, consisting of three members, were each reorganized and put under single commissioners. It is too early yet to speak of results, but if the experience of our cities and of commission government generally is any criterion, the outcome cannot but be a happy one for New York.

The experience of Iowa in the matter of control of her public institutions is a case in point. Previous to the establishment of the Board of Control, the public institutions of that state were under the control of separate Boards of Trustees. With the establishment of the Board of Control these were abolished and thirteen institutions passed under a single management. The Board of Control made its first biennial report in 1899, which includes a statement of the expenses of carrying on the institutions for two years, one under the old plan and one under the new. It shows that for the eleven charitable, penal and reformatory institutions there was expended for the year ending June 30, 1898, a total of \$1,148,126.80. For the same institutions the expense of the following year was a total of \$966,492.95, this being \$181,633.85 less than for the previous year. The saving of expense was effected at no sacrifice to efficiency, but the universal verdict in that state is that the service was greatly improved. The board in its report says: "A full appreciation of this reduction in expense cannot be understood without reference to the fact that there has been an advance in the prices of supplies of all kinds during the last year of

from twenty to thirty per cent, as is shown by the commercial reports. Had the prices of two years before prevailed, it is safe to say that there would have been a reduction of \$150,000 more than the above. It is but stating a fact that the board has not in a single instance endeavored to reduce the cost of support of the institutions at the expense of efficiency of service to the inmates." <sup>1</sup>

The experience of the State of Washington corroborates the above. In 1897 Washington's public institutions, five in number, passed from the control of separate Boards of Trustees under the care of a single Board of Control. The cost of maintaining these institutions under the old plan of directors for the four years ending in March, 1897, was \$1,021,531, or an average daily cost for all institutions of fifty-two cents per capita. For three and one-half years, under the Board of Control, the cost was \$799,303, or an average per capita cost of forty cents per day.<sup>2</sup>

What is shown to be true in these states is true of commission government everywhere. The people of the state universally get less service for the money expended, from this form of administration, than from any other. And this is true, irrespective of the integrity and carefulness of the individual members. It is the defects of the system which are here complained of—a system under which the best intentioned officials cannot work efficiently and economically.

The boards are practically irresponsible bodies. They are beyond the control of the people, or of any one who is responsible to the people for their actions. Appointed as they are for definite terms of office, they cannot be removed during that term except after an investigation, which amounts to an impeachment. The governor who appoints them in many cases can only appoint a single member, the terms of the others extending beyond his own, so that he

<sup>1</sup> First Biennial Report, Iowa Board of Control, p. 27.

<sup>2</sup> Bulletin, Iowa Board of Control, October, 1900, p. 1.

can neither mould the policy of the board nor can he be held responsible for it. "The people of the state might have a most decided opinion about the management and work of the departments and give emphatic expression to that opinion, and yet be unable to control their action. The system gives great power without proper responsibility, and tends to remove the people's government from the people's control. All must agree that the safe and democratic form of government is to make these administrative officers in some way responsible to the people."<sup>1</sup>

Massachusetts furnishes us with an instance of the powerlessness of the people to control these commissions. Gross mismanagement was complained of in the prisons of that state. But upon investigation it was ascertained that the prison commissioners could not be reached after their appointment except at the trouble and expense of a judicial investigation, and nothing was done. The Board of Supervisors of Statistics of Massachusetts was organized in 1877, composed of certain ex-officio officers, its duties being to have general supervision over all matters relating to statistics. It was required under the law to meet regularly at the state house at least once a month. But in the course of fifteen years it met but once, and then did nothing. There being no one to whom the board was responsible nothing could be done to arouse it from its apathy.

Hon. Seth Low, who certainly speaks with authority upon this question, says: "State commissions for any other purpose than for inquiry are the most dangerous bodies, because they exercise authority without responsibility. Power without responsibility is always dangerous, but power with responsibility to a constituency, which can readily call it to account is not dangerous. It is the first requisite of efficient administration." The fact that these commissions are thoroughly irresponsible is more readily appreciated when we call to mind that under the law of appointed offices,

<sup>1</sup> Messages of Governor W. E. Russell, 1891, 1892, 1893.

where the appointing power must have the consent of any other body to make the appointment valid, the same power must consent to the removal of the officer so appointed, in the absence of express statutory provision to the contrary.<sup>1</sup> The constitutions of seven of our states provide that the governor may remove for cause any officer appointed by him; but the force of such provisions is largely broken when it is considered that the rule of law in such cases is that where removal is to be had for cause, the power cannot be exercised until after the officer has been duly notified and an opportunity is given him to be heard in his own defence.<sup>2</sup> This has been recognized in some of the later legislation, and definite provision is often made for the removal by the governor of the officers appointed by him under the acts. But this leaves a large number of commissioners and boards who are out of the reach of anything short of what virtually amounts to an impeachment.

While it is believed that the foregoing is a correct statement as to the present weaknesses of commission government, it should not be concluded that there is not a place for some use of the commission in our administration. In the period when we began their appointment, the questions with which they had to deal were new and untried. Experiments had to be made, information gathered, and suggestions offered. And for these purposes there can be no doubt as to the efficacy of a commission. We are no longer in the tentative stage in a great deal of our state administration, and, it would seem, need no longer adhere to tentative methods. We are able to say with definiteness what we desire with reference to a great many questions about which in the past we have been inquiring and experimenting. Is it not time for us to reorganize our system of administration, and inaugurate a policy which has unity and system coupled with a proper responsibility to the people?

<sup>1</sup> *People vs. Freese*, 76 Cal. 733.

<sup>2</sup> *Am. & Eng. Ency. Law*, v. 19, p. 562.

It was suggested in the beginning of this paper that this system had taken power which is properly executive and placed it beyond the reach of the executive department of the government. This has resulted in a comparative diminution of the power of that department in comparison with that of the legislative and judicial departments. The condition of affairs in the present is such that the rights of the people can only be guaranteed to them by a restoration of at least a part of this power to the executive. It is manifestly unfeasible to elect all the officers of the state administration. They must be appointed. But if appointed, they must by some means be held accountable for their actions. This might be secured by giving to the governor of the state the power to appoint heads of departments who should be at all times responsible to him and subject to his removal. Under them the various interests which are now taken care of by commissions could be cared for through deputies at less expense and with much gain in efficiency over the present system. Then if the governor were held responsible for the whole of the administration of the state, as he should be, the people would be possessed of an effectual check upon its conduct. This principle is familiar to us in the government of most of our large cities of to-day, and though the wisdom of the system has been questioned by many, it nevertheless seems to present the only feasible plan under our present conditions.

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